

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA

Plaintiff

v.

PHILIP M. POPA, JR.,

Defendant

CASE NOS.: 5:18-CR-448

JUDGE BENITA Y. PEARSON

**MOTION TO EXTEND TIME WITHIN
WHICH TO APPEAL**

Now comes the Defendant Philip M. Popa, Jr., by and through the undersigned counsel, and respectfully requests that this Court extend the time within which to appeal in the instant matter. FRAP 4(b)(4) provides that “[u]pon a finding of excusable neglect or good cause, the district court may-before or after the time has expired, with or without motion and notice-extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b).” This Court entered Judgment on this matter on August 7, 2019. Mr. Popa’s appeal, therefore, was due no later than August 21, 2019. The deadline, however, was inadvertently calendared for August 22, 2019 in counsel’s calendar. Upon preparing the filing on the 22nd, the undersigned discovered the error. A copy of the Notice of Appeal is attached hereto as Exhibit A and will be filed immediately if the Court grants this Motion.

As this Court is aware, Mr. Popa specifically reserved the right to appeal two of this Court’s pretrial rulings. The undersigned respectfully requests that this Court allow Mr. Popa to pursue this right despite counsel’s error. This request is made for both excusable neglect and good cause. The mistake of a day in calendaring this filing may be deemed by this Court as

excusable neglect. Allowing Mr. Popa to pursue an appeal for which he negotiated and relied amounts to good cause. This is especially true given that Mr. Popa has done nothing to cause the delay in filing. Moreover, the Government is not prejudiced by a delay of a single day.

For the foregoing reasons, Mr. Popa respectfully requests this Court extend the deadline to file an appeal until the Court rules on this matter. If the Court grants this motion, the appeal will be filed immediately.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was electronically filed this 22nd day of August, 2019. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Andrea Whitaker
Andrea Whitaker